

U.S. COURTS

02 AUG 21 PM 1:55

RECEIVED  
CLERK  
CLERK

Kim J Dockstader, ISB No. 4207  
Gregory C. Tollefson, ISB No. 5643  
Teresa A. Hill, ISB No. 6175  
STOEL RIVES LLP  
101 South Capitol Boulevard, Suite 1900  
Boise, ID 83702-5958  
Telephone: (208) 389-9000  
Fax Number: (208) 389-9014  
kjdockstader@stoel.com  
gctollefson@stoel.com  
tahill@stoel.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.  
HINKLEY, JACQUELINE T. HLADUN,  
MARILYN J. CRAIG, JEFFERY P.  
CLEVINGER, and TIMOTHY C.  
KAUFMANN, individually and on behalf of  
those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a  
Minnesota corporation,

Defendant.

) Case No. CIV 01-0244-S-BLW

) **DECLARATION OF JAY W. ELLIS**

108

I, Jay W. Ellis, being first duly sworn, state that the following facts are true and correct. The following facts are based upon my personal knowledge. If called to testify regarding these facts, I am competent to do so and would testify as follows:

1. I was employed by Micron Electronics, Inc. ("Micron Electronics") in May of 1996. During my employment with Micron Electronics, I worked for different subsidiaries and held various positions. From approximately May of 1996 to December of 1996, I worked for Micron Electronics as a Direct Response Group inside sales representative. From approximately January of 1997 to September of 1998, I worked for Micron Electronics as a Regional Account manager in SpecTek.

2. From approximately October of 1998 to September of 1999, I worked for Micron Commercial Computer Systems, Inc. ("MCCS") as an inside sales representative in Commercial sales. From approximately October of 1999 to May of 2001, I worked for MCCS as a West Central Sales supervisor in Commercial sales.

3. I no longer work for any company owned or operated by Micron Electronics

4. As a supervisor, one of my responsibilities was to make sure timekeeping and overtime policies were observed by inside sales representatives. When I was an inside sales representative, I was subject to the same timekeeping and overtime policies. I have read and reviewed the overtime policy in the Team Member Handbook and the overtime and timekeeping policies in the Employment Policy Manual, and the policies are consistent with the practices I employed as a supervisor and adhered to as an inside sales representative.

5. When my employment with Micron Electronics commenced, I signed an acknowledgment which stated that I would comply with and meet my obligations under the

policies in the Team Member Handbook and later as revised by the Employment Policy Manual. I knew that it was my responsibility to know the policies and to abide by them.

6. As a supervisor in Commercial sales, I understood that MCCS was a separate subsidiary with its own compensation plan, commissions, incentives, business hours and customers. Commercial inside sales representatives marketed and sold Micron Electronics computer products and computing solutions to commercial businesses, specifically targeting medium and larger business sectors.

7. Overtime was generally approved or limited for the groups in this division at the individual supervisor level. Inside sales representatives under my supervision worked various shifts including 7:00 a.m. to 4:00 p.m., 8:00 a.m. to 5:00 p.m. and 9:00 a.m. to 6:00 p.m. and were scheduled to work eight hours a day, Monday through Friday. I typically supervised between twelve and twenty-eight inside sales representatives at a time.

8. During my employment with MCCS as a supervisor in Commercial sales, it was my responsibility to advise inside sales representatives on my team of the status of overtime. I informed inside sales representatives when overtime was mandatory, optional or limited, based on the time of year, volume of calls and productivity of inside sales representatives.

9. As a supervisor in Commercial sales, it was my practice to approve all overtime that was submitted by inside sales representatives under my supervision. I was never cautioned about inside sales representatives on my team working too much overtime.

10. I reviewed timesheets on a regular basis and even reviewed time entries throughout the week to make sure inside sales representatives were recording all of their time. It was an inside sales representative's responsibility to accurately record his or her time. I assumed

the inside sales representatives under my supervision would not intentionally falsify or under-report the number of hours they recorded.

11. If I happened to notice an inside sales representative coming in before a scheduled shift, working through lunch, working after a scheduled shift and/or working on weekends, I assumed he or she accurately recorded overtime on his or her timesheet.

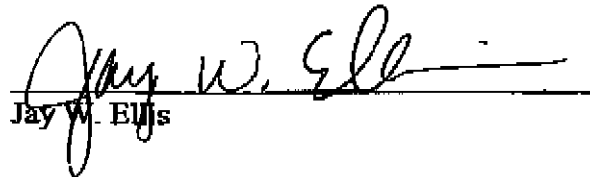
12. For the duration of my employment as a supervisor, I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours. I was not aware that any of the inside sales representatives under my supervision were intentionally working off the clock, or not recording all of the time they were working. I never told inside sales representatives under my supervision to work off the clock.

13. I supervised Kip DeRouen and Deborah Monahan, two inside sales representatives who I understand are involved in this lawsuit against Micron Electronics. Both of these individuals worked, recorded and were paid for a lot of overtime. I cannot think of a logical reason why these individuals would record several hours of overtime and then work off the clock a couple more hours of overtime when they knew I would approve any overtime they submitted. I never refused a request by either of these individuals to approve overtime.

14. I was Ms. Monahan's supervisor when she terminated her employment with MCCS on January 17, 2001. On that day, I met with Ms. Monahan to discuss a data sheet I prepared in order to track her performance development and assist in the performance management process. The data sheet indicated that Ms. Monahan had not met the minimum phone metric requirements. After our meeting, Ms. Monahan collected her personal items and walked out of the building. Ms. Monahan did not indicate whether or not she would return to work. She never returned to work.

15. When I was an inside sales representative, I didn't work a lot of overtime. When I did work overtime, I recorded all of the hours I worked and was paid for all of my overtime. I never worked off the clock, nor was I ever told or pressured to work off the clock by any of my supervisors. To my knowledge, my supervisors never altered my timesheets for the purpose of reducing overtime hours.

DATED this 21 day of August, 2002.

  
Jay W. Ellis

CERTIFICATE OF SERVICE

I hereby certify that on this 21<sup>st</sup> day of August, 2002, a true and correct copy of the foregoing **DECLARATION OF JAY W. ELLIS** was served on the following individuals by the manner indicated:

William H. Thomas  
Daniel E. Williams  
HUNTLEY, PARK, THOMAS,  
BURKETT, OLSEN & WILLIAMS  
250 S. Fifth Street, Suite 660  
Boise, Idaho 83701-2188

☒ By Hand Delivery  
☐ By Facsimile  
☐ By U.S. Mail  
☐ By Overnight Delivery

  
\_\_\_\_\_  
Kim J Deckstader